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## BOOK REVIEWS.

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THE REPORTS BY SIR JOHN RANDOLPH AND EDWARD BARRADALL OF  
DECISIONS OF THE GENERAL COURT OF VIRGINIA, 1728-1741.  
Edited with Historical Introduction by R. T. Barton. 2 vols.  
Boston, 1909.

Law Reports are rarely of interest to the general reader, but in these volumes, an introduction of 250 pages, presenting a luminous review of Colonial life, is an illustrious exception to the rule. The reports of cases handed down from the first half of the eighteenth century will be valued by lawyers as interesting specimens of Colonial jurisprudence. Mr. Barton's historical introduction deserves wide attention beyond the professional circle, as of great interest for the general reader. Its instructive pages are like streams from the living rock, and now timely, when rational thinking and clear statement are needed for correction of some current notions about our Colonial life.

As stated in the preface, "these decisions, now printed for the first time, are not offered for their *mere usefulness*, \* \* \* \* but the reason they should be published and put in the hands of the general reader and students of law is, chiefly, that they are the mirror of the events of by far the most interesting period of our American life. Their chief use here is the picture they give of the Colonial period in all its shades and aspects; of those brooding times of the States. \* \* \* The publisher has not been content to reproduce simply a statement of the cases. For that reason the unique method has been tried of accompanying the report of these cases with a perspective sketch of conditions during the times of the decisions, with some account of the writers of them and of the lawyers who practiced at the General Court in that day, with the hope of carrying the reader back to Colonial times and conditions."

As thus edited and illustrated, it is readily seen that the volumes have an interest far beyond their professional value. The lay reader, who might be repelled by the technical character and wording of the reports themselves, will find in Mr. Barton's introduction a lucid statement of political and social facts in the Colonial period; a narrative review of its history, expressed in the language of to-day, and with the charm of an easy, familiar style that enchains attention to the story of a wonderful era, aptly characterized as the most interesting period of our American life. The several chapters of the introduction are discussions of leading topics in the political, social and religious life of the Colonial era, grouped under appropriate headings, yet all related to the general subject.

It is especially interesting to note the repeated emphasis laid on some fundamental facts and cardinal principles, whose development has been the nexus that makes the unity of Virginia history. Large extracts might be cited from this introduction illustrating this consistency of growth during the three centuries since the planting of Jamestown. In an early chapter, on "The People," we read: "The real people of the Colony, who effected its permanent status, were the gentry and the commons, with the recognised distinctions brought over from England, somewhat modified by associations among a new people in a new land. It was by them and for them that the laws of the Colony were adjusted from what they were at first, as from time to time England permitted, or could not prevent, their modification by the Colonists to suit conditions of which England had no realizing sense, for England's foot-rule did not always measure just twelve inches in dealing with her American colonies." And a little further on we are reminded that, co-existent with a more fortunate class, many of the frontiersmen were rough and uncouth, but the small landholders, being freeholders, were important factors in the public interests of the day. "Of small beginnings, in many instances by thrift and enterprise they improved their conditions, and by education and refinement acquired the kind of social position which Virginians have always regarded as adding much to the pleasure of life. The impression that this class were men of inferior character, having great jealousy of the planter, has nothing whatever to support it. The proof is everywhere seen in old records that the planter and the small landholders lived in entire harmony, and had mutual respect and regard for each other. They opposed Berkeley together, fought side by side under Bacon, and stood shoulder to shoulder in the Revolution, and as neighbors and fellow-citizens worked together for issues as dear to one class as to the other." And again: "But while that was the day of jealous regard for personal freedom, it was the day of legally recognised class distinctions, as it was the day when no man had yet suggested that there was even an inconsistency between all this and holding black men in slavery." In a word, it was a colony of Englishmen, under English law and institutions, gradually developing into an independent commonwealth.

A chapter on "The Government" gives a rapid review of the charters and amendments—the fundamental constitution of English colonists mindful of their traditional and hereditary rights. On this broad fact repeated stress is laid that the original charter guaranteed to the colonists "all liberties, franchises and immunities, to all intents and purposes, as if they had been abiding and born within our realm of England." This important clause became the text of many a political sermon from 1770 to 1776. The whole chapter is a sketch teeming with valuable information in a summary history of the governing powers during the Colonial era, from the first Assembly of 1619, of which we are told: "The occa-

sion was a far more momentous one than realised by the participants. The surroundings, though simple, were dignified and impressive. The actors were earnest-minded men, happy in the thought of the improved condition in the character of their government, but they had no thought of posing as if all the centuries yet to come would be gazing upon them." A foot note says that two members elect were denied seats because the patent of the land represented by them exempted the owner from obedience to laws of the Colony except in matters of defence.

A chapter on "The Church" sketches the religious history of the Colony, illustrating the conditions prevailing, as in the mother country, under the union of Church and State, where the law clothed vestries with large control over civil as well as religious affairs. The natural rise and growth of dissent and protest against such control, compelling Acts of Toleration and resulting in religious freedom, were but steps in a progress of development that culminated in the Declaration of Independence and Revolutionary War, in which vestrymen and dissenters fought side by side in a common cause. The grouping of facts and illustrations in this chapter is the work of a master hand dealing with a difficult subject that has sometimes excited passionate controversy. Here, as elsewhere, is a constant reference to fundamental facts and principles, with some knowledge of human nature when enlisted in religious or political controversy. In a concise but lucid account of the Scotch-Irish and other dissenting immigrants is given an illustration of the assimilating power of social forces when allowed free play under the growth of public liberty. "The list of Virginia families descended from these people is a distinguished one, and includes that of 'Stonewall' Jackson whom Virginians are proud to recognize as a typical product of that fine class of her population as they also do Gen. R. E. Lee as a type of the best element of the older Colonial stock, which, swearing by Church and king, were yet among the first in the fight for American independence." In another paragraph the author adds: "It was at first *vis inertiae*, and then aggressive opposition, which would, even without the Revolution, have produced the same results and secured the separation of Church and State and entire religious toleration so far as the law can ever produce it." It is curious to read, as illustrating the whims of that time, that good Presbyterians of "Timber Ridge Church" were shocked when their pastor, Samuel Davies, carried a gold head cane and wore a gold ring; and some of the Staunton Church good people were scandalised when the eloquent blind preacher, Waddell, was "guilty of flagrant Sabbath breaking by drinking hot coffee on Sunday morning."

Occasionally, when touching on controverted points, Mr. Barton has the happy faculty of demonstrating his statement by simple reference to patent facts, whose mere recital refutes the theories of adverse critics. A neat instance of this kind of argument occurs in the chapter on Education, when commenting on the charge that little or no means of educa-

tion existed in Colonial Virginia; that such as existed was bad, and that even the young men sent to Europe returned with more of vice than education. The author's comment on such charges is short but crushing, with a touch of ironic humor, when he rejoins, "And yet, while this is spoken equally of the times just preceding the Revolution, the system in Virginia, good or bad, was equal to producing in that emergency a rather rare race of patriots and statesmen who adapted themselves fairly well both to war and civil government." He might have added the comment of a Massachusetts statesman, who has said that if Washington and his fellow leaders in Virginia had suddenly perished, others were at hand willing and able to carry on their work; and that this can be said of no other race or time. The mere reference to that marvelous generation of men is a refutation of slanders on the civilisation that bred them. A galaxy of such heroes cannot be a chance phenomenon of barbarism; and in this chapter on "Education" a review of the subject illustrates some of the means and methods contributing to produce the men and women of the eighteenth century. On the popular side one result of the system was shown in the spirited conduct of the "unterrified colony," as it was called by Cornwallis when marching to his doom at Yorktown.

The wealthier classes employed tutors for their children, and the benefit of these home schools was often, if not commonly, extended to poorer neighbors. Even Governor Berkeley admits as one of the means of general instruction, "the same course that is taken in England, out of town; every man, according to ability, instructing his children." A system of public schools, as now established, was impracticable in a sparsely peopled, rural community. At an early date gifts were made for the education of the poor, and buildings were furnished by the vestries; and it was obligatory on masters to have even apprentices instructed in the elementary branches. Among other valued features this chapter gives an interesting summary of the history of William and Mary College, with a sketch of Commissary Blair and his contests with the governing powers.

Other chapters on "The Law and Lawyers," "The Courts," and other topics of interest, are weighty with a mass of valuable information and comment thereon that makes this introduction a small encyclopædia of Colonial life, depicted in lively style, and provided with good indexes. Where the author has room for details of description his pages are picturesque with sketches of a civilization that made the Colony what it was; the first on the continent, not only in population and wealth, but also in power and influence.

A popular edition of the introduction for general circulation would be a public benefit as a spur to the restoration of lost advantages.

C. P.